D.B.CIVIL SPECIAL APPEAL NO.91/2003
Union of India & Anr. Vs. Shri Rancha Ram & Anr.

DATE OF ORDER:03.07.2006

HON'BLE MR.JUSTICE N.N.MATHUR
HON'BLE MR.JUSTICE R.P.VYAS

Mr.V.K.Mathur for the appellants
Mr.S.K.Sankhla for the respondents

BY THE COURT(PER HON'BLE MR.MATHUR J.)

This special appeal is directed against the judgment of the learned Single Judge dated 21st March, 2003 dismissing the appeal.

Briefly stated the facts of the case are that the first respondent Shri Rancha Ram met with an accident with the Gypsy bearing No. RJ-19C-5166 belonging to the appellant and sustained injuries. The first respondent filed a claim petition before the Motor Accident Claims Tribunal, Barmer claiming a compensation in the sum of Rs.11,43,800/-. The claim was contested on the ground that the subject vehicle was being used by the contractor namely M/s Surendra Kumar & Co. It was once of the condition of the contract that the contractor will be liable to all the acts and omissions done by the driver. The learned

Tribunal rejected the plea of the appellants on the ground that vehicle was registered in the name of the Executive Engineer, Central Public Works Department and the driver of the vehicle was in the employment of the Union of India. As such appellant Union of India was liable to pay the compensation for the negligence on part of its driver. In view of the finding the Tribunal made an award in favour of the first respondent for a sum of Rs.3,16,683/-.

The appellants preferred an appeal against the said award dated 26th March, 2002, which has been rejected by the impugned judgment of the learned Single Judge. The learned counsel for the appellants has re-agitated the contentions raised before the learned Single Judge. It has been brought to our notice that the controversy involved has been concluded by the Division Bench judgment of this Court rendered in D.B.Civil Special Appeal No.45/2005 (R.S.R.T.C. & Ors. vs. Smt.Asha Solanki & Ors.) dated 10th August, 2005. It is held therein that in terms of the contract the Corporation cannot be absolved from the liability to compensate the victim of the accident while a vehicle was controlled by the Corporation and held the Corporation liable to pay compensation to the victim. The said judgment is based on the earlier D.B. Judgment of this Court which has been affirmed by the Apex Court in R.S.R.T.C. Vs.

Kailsh Nath Kothari & Ors. reported in 1997(7) SCC page 481.

In view of the aforesaid there is no merit in the instant special appeal. Accordingly the special appeal stands dismissed.

(R.P.VYAS) J. **(N.N.MATHUR) J.**

BKS/-